

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3770 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HARIHAR COMMERCIAL CORPORATION

Versus

REGIONAL PROVIDENT FUND COMMISSIONER, AHMEDABAD

Appearance:

MR JV MEHTA for Petitioner

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/12/96

ORAL JUDGEMENT

Heard learned counsel for the petitioner and perused the Special Civil Application.

Challenge is made by the petitioner by this petition to the order of the respondent dated 19th October, 1983 under which damages for delayed payment of different contributions under sec.14B of Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the Act, 1952) have been

levied.

From the order annexure 'A', I am satisfied that it is a case where the petitioner is habitual defaulter in making of the payment of different amount of contributions under the provisions of the aforesaid Act. The statements showing the amount of penal damages levied under sec.14B of the Act, 1952 reveals that the petitioner in all the years mentioned in the statements made the delay in payment. This period starts from the year 1972.

Taking into consideration this fact that the petitioner is habitual defaulter, no illegality has been committed by the respondent to levy the damages under sec.14B of the Act, 1952.

Yet there is another reason for which no interference is called for by this court in the impugned order. A glance at the statements attached to the aforesaid order reveals that the damages have been levied in many of the cases of delayed payments at the rate of 2%. Only in few delayed payments, damages have been levied at the rate of 5 to 15%. In one delayed payment, the damages have been imposed 100%, but in all other cases the damages does not exceed 25%. Looking to the fact that the petitioner is habitual defaulter, it is a case where the respondent has taken the lenient view in the matter of levying of the damages.

In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated.

zgs/-